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REMARKS

Claims 1-42 are currently pending. In the interest of clarity, the Item Numbers below correspond to the Examiner's Item Numbers in the Office Action.

1. The Examiner objected to the drawings under 37 CFR 1.83(a). Respectfully, Applicant traverses and requests withdrawal.

While drawings must generally show every feature of an invention specified in the claims, an important caveat exists: "However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, *should* be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box)." 37 CFR 1.83(a) (emphasis added). As a preliminary matter, use of the permissive word "should" suggests conventional features need *not* be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation. Accordingly, Applicant submits that containers (Claim 35), cups (Claim 36), and packages (Claim 37) are conventional features, and thus, need not be illustrated in the drawing.

Regardless, Applicant further submits that containers (Claim 35), cups (Claim 36), and packages (Claim 37) *are* illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation, in full compliance with 37 CFR 1.83(a). For example, Applicant respectfully directs the Examiner's attention to Figs. 3-4, in which Applicant has shown a representative product 22 with a lenticular bar code image 20 applied thereto. *See Figs. 3-4 and Paragraph 44, lines 1-2.* While Applicant showed a compact disc case as a representative product 22 for exemplary purposes, Applicant indeed notes as follows:

The present invention contemplates that the lenticular bar code image 20 may be useful as applied to many such products 22, generally where it is desired to have, at some part of the image 16, a multidimensional effect occur. The product 22 may be used as an insert to, for example, a compact disc case or the like.

Paragraph 44, lines 7-11. Thus, Applicant respectfully submits that i) containers, cups, and packages are conventional features; ii) containers, cups, and packages are disclosed in the Specification; iii) depictions of containers, cups, and packages are not essential for a proper understanding of Applicant's invention; iv) 37 CFR 1.83(a) does not require showing containers, cups, and packages; and v) even if essential or required, Applicant has illustrated containers,

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cups, and packages in the form of a graphical drawing symbol or a labeled representation, in full compliance with 37 CFR 1.83(a).

Moreover, U.S. Pat. No. 6,424,467 ("Goggins") indicates that the applicable substrate can be used to make a package substrate, a container substrate, and a cup substrate, which are respectively used to form a package, a container, and a cup. *See Column 7, lines 25-28 and Claims 30, 34, and 38.* Applicant explicitly incorporated the Goggins teachings and disclosure into the present application, which Applicant has now made additionally explicit by revising ¶ 6 as indicated above. Earnestly believing the drawings comply with 37 CFR 1.83(a), Applicant therefore respectfully requests reconsideration and allowance of the same.

However, if the Examiner continues to require showing a package, container, or cup apart from the adequate representative product 22 already provided in Figs. 3-4 and in the Specification, Applicant respectfully solicits a statement from the Examiner attesting that such figures could not, and would not, constitute new matter.

2. The Examiner objected to the Abstract of Disclosure for improper language. Respectfully, Applicant traverses and requests withdrawal. However, as requested, and in compliance with M.P.E.P. § 608.01(b), Applicant amended the Abstract of Disclosure to eliminate a phrase that was implicit. Earnestly believing the Abstract of Disclosure does not contain improper language, Applicant therefore respectfully requests reconsideration and allowance of the same.

Regarding irregularities, Applicant also corrected various inadvertent spacings in Claims 34-37.

3. The Examiner objected to Claims 10 and 31-33 because of various informalities. Respectfully, Applicant traverses and requests withdrawal. However, as requested, Applicant amended Claims 10 and 31-33 to make explicit that which was implicit, namely spelling out various acronyms. Earnestly believing Claims 10 and 31-33 recite patentable subject matter, Applicant therefore respectfully requests reconsideration and allowance of the same.

4-5. The Examiner rejected Claim 10 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctively claim the subject matter which Applicant regards as the invention. Respectfully, Applicant traverses and requests withdrawal.

Applicant submits that the phrase "at least a C" is understood by those skilled in the art in this context to refer to a readability grade of the bar code symbol being at least 2.0 according to

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ANSI Standard X3.182-1990. This is made clear by the Examiner's own use of the phrase in the Office Action, to wit "McGinty teaches a bar code readability grade of C." *Office Action*, ¶ 12. Moreover, McGinty (U.S. Pat. No. 6,010,970) itself also teaches that one skilled in the art would understand Applicant's use of the phrase "at least a C" in this context, as numeric and alphabetic references are used interchangeably. *See Col. 3, lines 47-51*. Finally, Applicant's disclosure is clear in this regard:

The American National Standards Institute (ANSI) has a bar code print quality specification ANSI X3.182. This specification uses eight categories of measurement criteria to grade bar code print quality using letter grades ranging from A to F. Any grade other than an F is considered passing. However, as a rule of thumb, the higher the letter score, the easier the bar code will be to read. Some bar code specifications reference this specification and specify that labels must receive a specific ANSI letter grade or better, such as a C or better.

Paragraph 56, lines 1-6. Earnestly believing Claim 10 recites patentable subject matter, Applicant therefore respectfully requests reconsideration and allowance of the same.

6-7. The Examiner rejected Claims 1-3, 22, and 42 under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 4,869,946 ("Clay"). Respectfully, Applicant traverses and requests withdraw.

Clay discloses a security card having a transparent lenticular layer 10 and an image containing substrate layer 12. *See Col. 2, lines 62-63*. The transparent lenticular layer 10 contains lenticules 11 and the substrate layer 12 contains an image. *See Col. 2, lines 57-59 and 62-63*. Clay discloses that a bar code 23 can be made visible from all angles by placing it as a continuous image on the substrate layer 12, as opposed to a precursor or composite image, various parts of which become visible depending upon an angle of view. *See Col. 2, lines 23-31 and 63-67, and Fig. 2*. In other words, Clay discloses that the bar code 23 "can be laid down as a continuous image on the substrate rather than as a series of narrow strips which are part of the lenticular system." *Col. 3, line 67 – Col. 4, line 2*. While Clay depicts a verification code 21 oriented orthogonal to the bar code 23, *see Fig. 3*, **it does not form a bar code angle between the bars of the bar code symbol and the lenticules 11**. Rather, it teaches that Clay's bar code 23 remains permanently oriented parallel to the lenticules 11. It does not disclose a bar code angle, nor positioning the bars of the bar code symbol relative to the lenticules of the lenticular lens to achieve such a result. Lastly, it teaches that rotating the security card about an optically

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active axis or optically inactive axis relative to the lenticules 11 enhances readability. *Col. 4, lines 2-7.*

Moreover, Applicant agrees fully with the Examiner's analysis of Clay:

Clay fails to teach that the bars of the bar code symbol are skewed with respect to the lenticules of the lenticular lens and are not aligned with the lenticules of the lenticular lens. Clay also fails to teach a bar code offset angle between the bars of the bar code symbol and the lenticules of the lenticular lens.

...Clay fails to teach that the bars of the bar code symbol are perpendicular to the lenticules of the lenticular lens. Clay also fails to teach that at least one of the plurality of lenticules overlays more than one bar of the bar code symbol. Clay also fails to teach that the lenticules are not parallel to the spaced apart elements of the bar code and the lenticules are normal to the spaced apart elements of the bar code.

Office Action, ¶ 10.

Applicant, on the other hand, discloses and claims a lenticular bar code angle **between the bars of the bar code symbol and the lenticules 84** of a lenticular lens 80. By positioning Applicant's bar code image 18 to form an angle with the lenticules 84 of the lenticular lens 80, Applicant's bars of the bar code image 18 do not remain parallel to Applicant's lenticules 84.

Rotating Clay's card (which includes a bar code image that does not form an angle with the lenticules of a lenticular lens) relative to the lenticules about an optically active axis does not anticipate forming a lenticular bar code angle between the bars of the bar code symbol and the lenticules 84 of a lenticular lens 80. Therefore, Clay does not anticipate Applicant.

The above arguments apply equally to at least Claims 1-3, 22, and 42. Earnestly believing Claims 1-3, 22, and 42 recite patentable subject matter, Applicant therefore respectfully requests reconsideration and allowance of the same.

8. The Examiner rejected Claims 34-37 under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 6,424,467 ("Goggins"). Respectfully, Applicant traverses and requests withdrawal.

35 U.S.C. § 102(e) does not apply to patents and applications by the *same* inventor. *See 35 U.S.C. § 102(e)*. Rather, the statutory language refers to patents issued "by another." *Id.* Thus, Applicant can overcome an improper § 102(e) rejection by submitting an affidavit or declaration under 37 CFR 1.132 establishing that the relevant disclosure is Applicant's own

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work. *See MPEP § 2136.05*. However, applicants cannot use prior applications to antedate a reference if a prior application was not copending with an application at issue. *See id.*

In this case, Applicant is the sole and same inventor in both Goggins and this instant Application. Thus, § 102(e) does not apply because Goggins was not issued "by another." Per the remedy provided in MPEP § 2136.05, Applicant hereby submits a declaration under 37 CFR 1.132 to establish that the relevant disclosure is Applicant's own work, and that Goggins was copending with the instant Application. Thus, Applicant has overcome the Examiner's § 102(e) rejection. (Notably, the Examiner raised no additional objections or rejections to Claims 34-37). Earnestly believing Claims 34-37 recite patentable subject matter, Applicant therefore respectfully requests reconsideration and allowance of the same.

9-10. The Examiner rejected Claims 4-6, 17, and 38-40 under 35 U.S.C. § 103(a) as being unpatentable over Clay as applied to Claim 1, and further in view of U.S. Pat. No. 6,073,854 ("Bravenec"). Respectfully, Applicant traverses and requests withdrawal.

Applicant discussed Clay above; those descriptions and arguments also apply equally here. Furthermore, Applicant reiterates agreement with the Examiner in so far as the following:

Clay fails to teach that the bars of the bar code symbol are skewed with respect to the lenticules of the lenticular lens and are not aligned with the lenticules of the lenticular lens. Clay also fails to teach a bar code offset angle between the bars of the bar code symbol and the lenticules of the lenticular lens.

... Clay fails to teach that the bars of the bar code symbol are perpendicular to the lenticules of the lenticular lens. Clay also fails to teach that at least one of the plurality of lenticules overlays more than one bar of the bar code symbol. Clay also fails to teach that the lenticules are not parallel to the spaced apart elements of the bar code and the lenticules are normal to the spaced apart elements of the bar code.

Office Action, ¶ 10. The Examiner attempts to overcome these deficiencies with Bravenec.

Bravenec discloses a telephone card that is manufactured using lenticular lens material. *See Col. 1, lines 12-16.* Bravenec also discloses cutting lenticules in various patterns, including "lengthwise of the card," "crosswise of the length of the card," and "diagonally of the card." *Col. 3, lines 6-10 and Figs. 1A-1C.* However, Bravenec discloses **no reason** for cutting patterned lenticules across the card, and, more significantly, fails to disclose that diagonal lenticules, for example, enhance readability, much less the readability of the bars of a bar code

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that are formed at an angle relative to the lenticules. In fact, neither Clay nor Bravenec disclose, individually or in combination, **creating a lenticular bar code angle between the bars of a bar code symbol and the lenticules of a lenticular lens.**

At a minimum, Clay and Bravenec solve *different problems*, whereby there is *no reason to combine* their respective teachings. Both references are *complete and functional* in and of themselves, so there would be *no motivation* for one skilled in the art to combine these references to arrive at Applicant's invention, and even if combined, they *fail to meet* Applicant's claims. Neither *contemplates the problem* of lenticular lens distortion when reading bar code images, and neither could therefore reasonably expect to achieve Applicant's *unexpected results*. Applicant's disclosure specifically references this point. *See Paragraph 63 and Fig. 11.* Despite the Examiner's *unsupported observation* that the combination of references would avoid misreading the lenticules as one of the bars of the bar symbol, the Examiner has made a *strained combination* of references that can only be supported through improper *hindsight reconstruction*. Thus, Clay as applied to Claim 1, and further in view of Bravenec, cannot render Applicant's invention obvious. Earnestly believing Claims 4-6, 17, and 38-40 recite patentable subject matter, Applicant therefore respectfully requests reconsideration and allowance of the same.

11. The Examiner rejected Claims 7-9 and 11 under 35 U.S.C. § 103(a) as being unpatentable over Clay as applied to Claim 1, and further in view of U.S. Pat. No. 6,386,448 ("Addy"). Respectfully, Applicant traverses and requests withdrawal.

Applicant discussed Clay above; those descriptions and arguments also apply equally here. To the extent Addy discloses a hand-held scanner gun as recited in Claims 7-9 and 11, it does not, because it cannot, recite or render obvious a hand-held scanner gun in combination with Applicant's other new, useful, and non-obvious combination of claimed elements. Earnestly believing Claims 7-9 and 11 recite patentable subject matter, Applicant therefore respectfully requests reconsideration and allowance of the same.

12. The Examiner rejected Claims 10 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Clay as modified by Addy applied to Claim 7, and further in view of U.S. Pat. No. 6,010,970 ("McGinty"). Respectfully, Applicant traverses and requests withdrawal.

Applicant discussed Clay above; those descriptions and arguments also apply equally here. To the extent McGinty discloses ANSI standard X3.182-1990 for bar-code readability including Grades B (at least 3.0) and C (at least 2.0), as recited in Claim 10, it does not, because

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it cannot, recite or render obvious ANSI Standard X3.182-1990 readability grade of at least C in combination with Applicant's other new, useful, and non-obvious combination of claimed elements. To the extent McGinty discloses a lenticular bar code image wherein the bar code symbol is one of a Code 39 symbology, an Interleaved 2 of 5 symbology, a Codabar symbology, a Code 128 symbology, a Code 93 symbology, and a Postnet symbology, as recited in Claim 16, it does not, because it cannot, recite or render obvious a lenticular bar code image wherein the bar code symbol is one of a Code 39 symbology, an Interleaved 2 of 5 symbology, a Codabar symbology, a Code 128 symbology, a Code 93 symbology, and a Postnet symbology in combination with Applicant's other new, useful, and non-obvious combination of claimed elements. Earnestly believing Claims 10 and 16 recite patentable subject matter, Applicant therefore respectfully requests reconsideration and allowance of the same.

13. The Examiner rejected Claims 12-15, 18-21, and 23-30 under 35 U.S.C. § 103(a) as being unpatentable over Clay in view of Goggins. Respectfully, Applicant traverses and requests withdrawal.

Applicant discussed Clay and Goggins above; those descriptions and arguments also apply equally here. To the extent Goggins discloses a high definition lenticular lens as recited in Claims 12-15 and 25-29, it does not, because it cannot, recite or render obvious a high definition lenticular lens in combination with Applicant's other new, useful, and non-obvious combination of claimed elements. To the extent Goggins discloses providing a good quality image printing on items, as recited in Claims 18-21 and 23-24, it does not, because it cannot, recite or render obvious providing a good quality image printing on items in combination with Applicant's other new, useful, and non-obvious combination of claimed elements. To the extent Goggins discloses that the lenticular bar code image is applied to at least one of a package, a cup, a container, and a label, as recited in Claim 30, it does not, because it cannot, recite or render obvious providing a good quality image printing on items in combination with Applicant's other new, useful, and non-obvious combination of claimed elements. Earnestly believing Claims 12-15, 18-21, and 23-30 recite patentable subject matter, Applicant therefore respectfully requests reconsideration and allowance of the same.

14. The Examiner rejected Claims 31-33 and 41 under 35 U.S.C. § 103(a) as being unpatentable over Clay as modified by Bravenec as applied to Claim 5, and further in view of Addy. Applicant discussed Clay, Bravenec, and Addy above; those descriptions and arguments

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also apply equally here. To the extent Addy discloses that a hand-held scanner scans or reads a product identification code such as a UPC, as recited in Claims 31-33, it does not, because it cannot, recite or render obvious a hand-held scanner scanning or reading a product identification code such as a UPC in combination with Applicant's other new, useful, and non-obvious combination of claimed elements. To the extent these references disclose reading a lenticular bar code image through the lenticules of the lenticular lens with a bar code reader, as recited in Claim 41, it does not, because it cannot, recite or render obvious reading a lenticular bar code image through the lenticules of the lenticular lens with a bar code reader in combination with Applicant's other new, useful, and non-obvious combination of claimed elements. Earnestly believing Claims 31-33 and 41 recite patentable subject matter, Applicant therefore respectfully requests reconsideration and allowance of the same.

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CONCLUSION

Applicant claims a lenticular bar code image comprising i) a lenticular lens having a front surface including a plurality of lenticles and a back surface opposite the front surface; and ii) an image joined to the back surface of the lens, the image including a bar code symbol having bars, wherein the lenticular lens and the image are in overlay relationship with one another such that a **lenticular bar code angle** is formed between the bars of the bar code symbol and the lenticles of the lenticular lens. Nothing in any of the cited references, either alone or in combination, teaches or suggests Applicant's claimed invention. In any event, Applicant believes this Response overcomes all of the Examiner's rejections and objections. Thus, Applicant believes the Examiner cannot establish or maintain proper rejections or objections to the Specification or claims. Accordingly, Applicant respectfully requests withdrawal of all rejections and objections.

Applicant believes this Response should allow the Examiner to allow the above-referenced patent application to issue as a U.S. patent without further amendments to the Specification or claims. Applicant respectfully submits that all pending claims are in condition for allowance, which Applicant requests. Applicant also solicits notification to that effect. However, if any questions should arise, Applicant hereby encourages the Examiner to telephone the undersigned attorney.